



## STATE OF WASHINGTON

# PUBLIC DISCLOSURE COMMISSION

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TO: Members, Public Disclosure Commission

FROM: Doug Ellis  
Director of Public Outreach

DATE: October 21, 2003

SUBJECT: Public Hearing and Possible Permanent Adoption of Proposed Rules

A public hearing has been scheduled for proposed amendment of WAC 390-05-400 and new and proposed enforcement rules in chapter 390-37 WAC.

### **I. WAC 390-05-400 Changes in dollar amounts**

RCW 42.17.690 requires the Commission to increase or decrease the dollar amounts established by Initiative 134 at the beginning of each even-numbered year.

#### **RCW 42.17.690 Changing monetary limits.**

At the beginning of each even-numbered calendar year, the commission shall increase or decrease all dollar amounts in this chapter based on changes in economic conditions as reflected in the inflationary index used by the commission under RCW 42.17.370. The new dollar amounts established by the commission under this section shall be rounded off by the commission to amounts as judged most convenient for public understanding and so as to be within ten percent of the target amount equal to the base amount provided in this chapter multiplied by the increase in the inflationary index since December 3, 1992.

The formula for accomplishing this inflationary adjustment is set out in statute. That formula mandates that each 1992 value be multiplied by the level of inflation as estimated by the Implicit Price Deflator (IPD). The product of this multiplication is the "target amount" for each dollar value. The actual adjusted amount adopted by the Commission must be within 10% of this target amount and "convenient for public understanding."

Attached is the proposed language for WAC 390-05-400.

## **II. PDC Enforcement Hearing Rules – Chapter 390-37 WAC**

The updated PDC enforcement hearing (adjudicative proceeding) rules would create 8 new rules and amend 17 current rules.

The following is a listing of the proposed new rules and amendments. The actual language is attached:

1. **PROPOSED NEW RULE: WAC 390-37-001 Enforcement Cases – Jurisdiction.**
2. **PROPOSED AMENDMENT: WAC 390-37-010 Enforcement procedures -- ~~Policy.~~ General.**
3. **PROPOSED AMENDMENT: WAC 390-37-030 Enforcement procedures -- ~~Status of citizen complainant and others~~ citizen complaints filed with the commission .**
4. **PROPOSED AMENDMENT: WAC 390-37-040 Enforcement procedures -- Procedures for filing citizen complaints with the commission.**
5. **PROPOSED NEW RULE: WAC 390-37-041 Enforcement procedures – Allegations submitted to the Attorney General's Office and/or prosecuting attorneys.**
6. **PROPOSED AMENDMENT: WAC 390-37-050 Enforcement procedures -- Respondent's notice of complaint.**
7. **PROPOSED AMENDMENT: WAC 390-37-060 Enforcement procedures -- Investigation of complaints -- Initiation of hearing (adjudicative proceeding).**
8. **PROPOSED AMENDMENT: WAC 390-37-070 Enforcement procedures -- Complaints ~~dismissible~~ dismissed by executive director.**
9. **PROPOSED AMENDMENT: WAC 390-37-090 Informal settlement -- Cases resolvable by stipulation prior to an enforcement hearing (adjudicative proceeding), or by other alternative dispute mechanisms.**
10. **PROPOSED AMENDMENT: WAC 390-37-100 Enforcement procedures -- Conduct of hearings (adjudicative proceedings).**
11. **PROPOSED NEW RULE: WAC 390-37-103 Commission options following receipt of a staff report on alleged violations.**
12. **PROPOSED AMENDMENT: WAC 390-37-105 Prehearing conference -- Rule.**
13. **PROPOSED AMENDMENT: WAC 390-37-120 Enforcement hearings (adjudicative proceedings)-- Subpoenas -- Discovery -- Hearings. (1)**
14. **PROPOSED AMENDMENT: WAC 390-37-130 Enforcement hearings (adjudicative proceedings)-- Depositions and interrogatories -- Right to take.**
15. **PROPOSED AMENDMENT: WAC 390-37-132 Enforcement hearings (adjudicative proceedings) - Depositions and interrogatories -- Notice.**
16. **PROPOSED AMENDMENT: WAC 390-37-136 Production of documents and use at hearing (adjudicative proceedings).**
17. **PROPOSED AMENDMENT: WAC 390-37-140 Brief enforcement hearings (adjudicative proceedings) -- Authority.**
18. **PROPOSED AMENDMENT: WAC 390-37-142 Brief enforcement hearing (adjudicative proceeding)-- Procedure.**
19. **PROPOSED AMENDMENT: WAC 390-37-144 Brief enforcement hearing adjudicative proceeding-- Administrative review procedures.**
20. **PROPOSED AMENDMENT: WAC 390-37-150 Reconsideration and judicial review of decisions.**

- 21. PROPOSED NEW RULE: WAC 390-37-155 Electronic Filing Brief Enforcement Hearing Penalty Schedule.**
- 22. PROPOSED NEW RULE: WAC 390-37-160 Statement of Financial Affairs (F-1) Penalty Schedule.**
- 23. PROPOSED NEW RULE: WAC 390-37-165 Candidate Registration Statement (C-1)/Candidate Statement of Financial Affairs (F-1) Penalty Schedule.**
- 24. PROPOSED NEW RULE: WAC 390-37-170 Lobbyist Monthly Expense Report (L-2) Penalty Schedule.**
- 25. PROPOSED NEW RULE: WAC 390-37-175 Lobbyist Employer Report (L-3) Penalty Schedule.**

### **Language Changes**

The proposed new rules WAC 390-37-155 thru WAC 390-37-170 (penalty schedules) were amended to reflect the Commission recommendation that a proviso be added to clarify the meaning of "occasion". The new proviso reads as follows:

**(5) "Occasion" means established violation. At the 4<sup>th</sup> occasion, among other factors, the commission may consider if any prior violations and penalties were stipulated to by the respondent, in determining the amount of the penalty.**

Action by the Commission. Staff is requesting the Commission adopt the proposed amendment to WAC 390-05-400 effective January 1, 2004, as well as adopt the 25 proposed new and amended rules in chapter 390-37 WAC. The effective date of the enforcement rules is 31 days after filing the CR 103 with the Code Reviser.